



Senate

General Assembly

File No. 517

February Session, 2008

Substitute Senate Bill No. 646

Senate, April 7, 2008

The Committee on Education reported through SEN. GAFFEY of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING GIFTS AND CAMPAIGN CONTRIBUTIONS
MADE TO ELECTED AND APPOINTED MUNICIPAL OFFICIALS WHO
ARE INVOLVED IN THE NEGOTIATION AND AWARDED OF SCHOOL
CONSTRUCTION CONTRACTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2008*) As used in this section and
2 section 2 of this act:

3 (1) "Gift" means anything of value, including entertainment, food,
4 beverage, travel and lodging given or paid to a public official or public
5 employee to the extent that consideration of equal or greater value is
6 not received. A gift does not include:

7 (A) A political contribution otherwise reported as required by law
8 or a donation or payment as described in subdivision (9) or (11) of
9 subsection (b) of section 9-601a of the general statutes;

10 (B) Services provided by persons volunteering their time for a
11 political campaign;

12 (C) A commercially reasonable loan made on terms not more
13 favorable than loans made in the ordinary course of business;

14 (D) A gift received from (i) an individual's spouse, fiance or fiancée,
15 (ii) the parent, brother or sister of such individual or such spouse, or
16 (iii) the child of such individual or the spouse of such child;

17 (E) Goods or services which are provided to the municipality or
18 regional school district and facilitate governmental action or functions;

19 (F) A certificate, plaque or other ceremonial award costing less than
20 one hundred dollars;

21 (G) A rebate or discount on the price of anything of value given in
22 the ordinary course of business without regard to the recipient's status;

23 (H) Printed or recorded informational material germane to
24 governmental action or functions;

25 (I) Items of nominal value, not to exceed ten dollars, containing or
26 displaying promotional material;

27 (J) An honorary degree bestowed upon a public official or public
28 employee by a public or private university or college;

29 (K) A meal provided at an event or the registration or entrance fee
30 to attend such an event, in which the public employee or public official
31 participates in said person's official capacity;

32 (L) A meal provided in the home by an individual who resides in
33 the municipality or regional school district; or

34 (M) Gifts in-kind of nominal value not to exceed twenty-five dollars
35 tendered on gift-giving occasions generally recognized by the public
36 including Christmas, Hanukkah, birthdays, the birth or adoption of a
37 child, weddings, confirmations or bar or bat mitzvahs, provided the
38 total value of such gifts in any calendar year do not exceed fifty
39 dollars.

40 (2) "Immediate family" means any spouse, child or dependent
41 relative who resides in the individual's household.

42 (3) "Individual" means a natural person.

43 (4) "Municipality" means a town, city or borough.

44 (5) "Person" means an individual, sole proprietorship, trust,
45 corporation, union, association, firm, partnership, committee, club or
46 other organization or group of persons.

47 (6) "Public official" means an elected or appointed official, whether
48 paid or unpaid or full or part time, of a municipality or political
49 subdivision thereof, or a regional school district who substantially
50 participates in the process of negotiating and awarding school
51 construction contracts under chapter 173 of the general statutes. Public
52 official includes a candidate for any office for which the holder of the
53 office substantially participates in such process.

54 (7) "Substantially participate" means to participate in a particular
55 matter directly, extensively and substantively, not peripherally,
56 clerically or ministerially.

57 (8) "Contribution" means contribution as defined in section 9-601a of
58 the general statutes.

59 Sec. 2. (NEW) (*Effective July 1, 2008*) (a) No public official shall solicit
60 or accept any gift from any person that, to the official's knowledge, is
61 doing business with respect to a school construction project under
62 chapter 173 of the general statutes with the municipality or regional
63 school district.

64 (b) No public official shall solicit or accept any gift from any
65 individual who is in the immediate family of a person that, to the
66 official's knowledge, is doing business with respect to a school
67 construction project under chapter 173 of the general statutes with the
68 municipality or regional school district.

69 (c) No public official shall solicit or accept any gift from an
 70 individual who is an employee of a person that, to the official's
 71 knowledge, is doing business with respect to a school construction
 72 project under chapter 173 of the general statutes with the municipality
 73 or regional school district.

74 (d) No public official shall solicit or accept a campaign contribution
 75 of more than fifty dollars in any one election cycle from: (1) A person
 76 that, to the official's knowledge, is doing business with respect to a
 77 school construction project under chapter 173 of the general statutes
 78 with the municipality or regional school district, (2) an individual in
 79 the immediate family of such a person doing business with respect to a
 80 school construction project under chapter 173 of the general statutes
 81 with the municipality or regional school district, or (3) an individual
 82 who is an employee of a person that is doing business with respect to a
 83 school construction project under chapter 173 of the general statutes
 84 with the municipality or regional school district.

85 (e) Any person who violates any provision of this section shall be
 86 assessed a civil penalty of not less than two thousand five hundred
 87 dollars or more than ten thousand dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2008	New section
Sec. 2	July 1, 2008	New section

ED *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
See Below	GF - See Below	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
All Municipalities	See Below	See Below	See Below

Explanation

The bill is unclear as to what state agency, if any, would be required to monitor all the provisions and requirements in the bill. Whichever agency is required to enforce the provisions in the bill would require an Investigator (\$65,000)¹ plus fringes. In any one year approximately 100 new school construction projects are begun. Additionally approximately 700 projects are still in process from previous years. The number of elected and appointed officials that substantially participate in the negotiation or award of such projects can be significant in any given year.

To the extent that civil penalties are assessed there would be a revenue gain, but the bill is unclear as to where the revenue would be deposited.

The Out Years

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 646*****AN ACT CONCERNING GIFTS AND CAMPAIGN CONTRIBUTIONS MADE TO ELECTED AND APPOINTED MUNICIPAL OFFICIALS WHO ARE INVOLVED IN THE NEGOTIATION AND AWARDING OF SCHOOL CONSTRUCTION CONTRACTS.*****SUMMARY:**

This bill prohibits local public officials who substantially participate in the negotiation or award of school construction contracts from soliciting or accepting gifts or campaign contributions above a certain threshold from people they know are “doing business with respect to school construction projects” in their town, city, borough, or regional school district. It also prohibits them from soliciting or accepting gifts from the employees or spouse, child, or dependent relative living in the household of the person doing business. It is unclear who “people doing business with respect to school construction” covers and how local officials will be able to identify them.

The ban on campaign contributions applies to contributions of \$50 or more in any election cycle. Current law permits individuals to contribute up to \$1,000 to municipal chief elected official candidates and up to \$250 to candidates for other local offices. These limits apply separately to primaries and elections (CGS § 9-611).

The bill requires violators to be assessed a civil penalty of \$2,500 to \$10,000 (see COMMENT).

By law, unchanged by the bill, any town, city, borough, or combination thereof may adopt a code of ethical conduct and establish an ethics board or commission to enforce it (CGS §§ 7-148 (c)(10)(B) and 7-148h). The bill does not specify the effect of its bans on municipal code provisions on the same subject that may be more or

less restrictive (see BACKGROUND).

EFFECTIVE DATE: July 1, 2008

PUBLIC OFFICIALS

The bill covers elected or appointed officials of a municipality, municipal political subdivision, or regional school district, including candidates for office and fire, sewer, and other district officers. "Substantial participation" is direct, extensive, and substantive, but not peripheral, clerical, or ministerial.

GIFT BAN

The gift ban covers anything of value, including entertainment, food, beverages, travel, and lodging, for which consideration of greater or equal value is not received. However, gift does not include:

1. political contributions;
2. volunteer services provided to a political campaign;
3. a commercially reasonable loan with terms comparable to others made in the ordinary course of business;
4. items provided by the official's spouse, fiancé, fiancée, parent, sibling, child, or in-laws;
5. goods or services provided to the municipality or regional school district that facilitate governmental action or function;
6. a certificate, plaque, or other ceremonial award that costs less than \$ 100;
7. a rebate or discount on the price of anything of value given in the ordinary course of business without regard to the recipient's status;
8. printed or recorded informational material related to governmental action or functions;

9. items valued at \$10 or less containing or displaying promotional material;
10. an honorary degree bestowed upon a public official or employee by a public or private university or college;
11. meals provided in the home of an individual who lives in the municipality or regional school district;
12. meals provided at, or registration or entrance fees to attend, an event that a public official or employee attends in his or her official capacity; and
13. items valued at up to \$25 up to an aggregate of \$50 in any calendar year given on gift-giving occasions generally recognized by the public, including Christmas, Hanukkah, birthdays, the birth or adoption of a child, weddings, confirmations, or bar or bat mitzvahs.

BACKGROUND

Municipal Ethics Codes

In response to a 2006 survey completed by the Connecticut Conference of Municipalities (CCM), 86 of 148 responding towns indicated that they had a code of ethics. Twelve additional towns stated that they have ethics policies, but no formal code. Since the survey, CCM reports that one additional town adopted a code.

Municipal Ethics Task Force

An eight-member legislative task force is studying the Office of State Ethics' recommendations for implementing a uniform municipal ethics code. The task force must report its findings and recommendations to the Government Administration and Elections Committee (GAE) by January 1, 2009.

Related Bill

sHB 5506, favorably reported by the GAE Committee, establishes a pilot program for the handling of municipal ethics complaints and

requires participating municipalities to adopt an ethics code.

COMMENT

Enforcement

The bill assesses a penalty on violators but does not specify who enforces the ban or makes the assessment. It is also silent on whether alleged violators are provided with notice and the opportunity for a hearing.

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute

Yea 15 Nay 13 (03/18/2008)